AVAILABILITY OF PUBLIC INFORMATION AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: Craig Hall

LONG TITLE

General Description:
This bill modifies provisions relating to the availability of public information.

Highlighted Provisions:
This bill:
- moves the Utah Transparency Advisory Board from the Division of Finance to the Department of Administrative Services;
- modifies the board's membership;
- expands the duties of the board to include responsibility for developing recommendations concerning making public information more accessible through a website;
- provides principles to guide the board in fulfilling its new duties;
- directs the Department of Administrative Services to implement board recommendations if certain conditions are met; and
- makes technical changes.

Money Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:
AMENDS:

63A-3-403, as last amended by Laws of Utah 2010, Chapter 286
Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-3-403 is amended to read:

63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --
Duties.

(1) There is created within the department the Utah Transparency Advisory Board comprised of members knowledgeable about public finance or providing public access to public financial information as follows:

(2) The board consists of:

(a) an individual appointed by the director of the Division of Finance;

(b) an individual appointed by the director of the Governor's Office of Planning and Budget;

(c) an individual appointed by the governor on advice from the Judicial Council, who shall serve until June 30, 2009;

(d) an individual appointed by the governor on advice from the Legislative Fiscal Analyst;

(e) one member of the Senate, appointed by the governor on advice from the president of the Senate;

(f) one member of the House of Representatives, appointed by the governor on advice from the speaker of the House of Representatives;

(g) an individual appointed by the director of the Department of Technology Services;

(h) one member appointed by the governor from a state institution of higher education, who shall serve for one year beginning on July 1, 2009 and ending on June 30, 2010; and

(i) three additional members appointed by the governor, who shall each serve one-year terms as follows:

(j) for the term beginning on July 1, 2009 and ending on June 30, 2010, represent the
(A) a school district;
(B) a charter school; and
(C) a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act; and

(iii) for the term beginning on July 1, 2010 and ending on June 30, 2011, represent the following entities:
(A) a county;
(B) a municipality; and
(C) (I) a local district under Title 17B, Limited Purpose Local Government Entities—Local Districts, that is not a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or
(II) a special service district under Title 17D, Chapter 1, Special Service District Act.

g) the director of the Division of Archives created in Section 63A-12-101 or the director's designee;

(h) an individual who is a member of the State Records Committee created in Section 63G-2-501, appointed by the governor;
(i) an individual representing counties, appointed by the governor;
(j) an individual representing municipalities, appointed by the governor; and
(k) two individuals who are members of the public and who have knowledge, expertise, or experience in matters relating to the board's duties under Subsection (10), appointed by the board members identified in Subsections (2)(a) through (j).

(2) (3) The board shall:
(a) advise the division on matters related to the implementation and administration of this part;
(b) develop plans, make recommendations, and assist in implementing the provisions of this part;
(c) determine what public financial information shall be provided by participating state
and local entities, [provided that] if the public financial information:

(i) only includes records that:

(A) are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act;

(B) are an accounting of money, funds, accounts, bonds, loans, expenditures, or revenues, regardless of the source; and

(C) are owned, held, or administered by the participating state or local entity that is required to provide the record; and

(ii) is of the type or nature that should be accessible to the public via a website based on considerations of:

(A) the cost effectiveness of providing the information;

(B) the value of providing the information to the public; and

(C) privacy and security considerations;

(d) evaluate the cost effectiveness of implementing specific information resources and features on the website;

(e) establish size or budget thresholds to identify those local entities that qualify as participating local entities as defined in this part, giving special consideration to the budget and resource limitations of an entity with a current annual budget of less than $10,000,000;

(f) require participating local entities to provide public financial information in accordance with the requirements of this part, with a specified content, reporting frequency, and form;

(g) require a participating local entity's website to be accessible by link or other direct route from the Utah Public Finance Website if the participating local entity does not use the Utah Public Finance Website; and

(h) determine the search methods and the search criteria that shall be made available to the public as part of a website used by a participating local entity under the requirements of this part, which criteria may include:

(i) fiscal year;
(ii) expenditure type;
(iii) name of the agency;
(iv) payee;
(v) date; and
(vi) amount.

[3] (4) The board shall annually elect a chair and a vice chair from its members.

[4] (5) (a) [Except for a member appointed under Subsections (1)(c) and (h), each] Each member shall serve a two-year term.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the remainder of the unexpired term.

(5) The board shall meet as it determines necessary to accomplish its duties.

(6) To accomplish its duties, the board:
(a) may meet as many as eight times during 2013; and
(b) shall, after 2013, meet as it determines necessary.

(7) Reasonable notice shall be given to each member of the board before any meeting.

(8) A majority of the board constitutes a quorum for the transaction of business.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) (a) As used in this Subsection (10):

(i) "Information website" means a single Internet website containing public information or links to public information.

(ii) "Public information" means records of state or local government that are classified as public under Title 63G, Chapter 2, Government Records Access and Management Act.
(b) The board shall:

(i) study the establishment of an information website and develop recommendations for its establishment;

(ii) develop recommendations about how to make public information more readily available to the public through the information website;

(iii) develop standards to make uniform the format and accessibility of public information posted to the information website; and

(iv) no later than November 30, 2013, report the board's recommendations and standards developed under Subsections (10)(b)(i) through (iii) to the executive director and the Legislative Management Committee.

(c) In fulfilling its duties under Subsection (10)(b), the board shall be guided by principles that encourage:

(i) (A) the establishment of a standardized format of public information that makes the information more easily accessible by the public;

     (B) the removal of restrictions on the reuse of public information;

     (C) minimizing limitations on the disclosure of public information while appropriately safeguarding sensitive information; and

     (D) balancing factors in favor of excluding public information from an information website against the public interest in having the information accessible on an information website;

(ii) (A) permanent, lasting, open access to public information; and

     (B) the publication of bulk public information;

(iii) the implementation of well-designed public information systems that ensure data quality, create a public, comprehensive list or index of public information, and define a process for continuous publication of and updates to public information;

(iv) the identification of public information not currently made available online and the implementation of a process, including a timeline and benchmarks, for making that public information available online; and
(v) accountability on the part of those who create, maintain, manage, or store public
information or post it to an information website.

(d) The department shall implement the board's recommendations, including the
establishment of an information website, to the extent that implementation:

(i) is approved by the Legislative Management Committee;

(ii) does not require further legislative appropriation; and

(iii) is within the department's existing statutory authority.